

Abortion Laws and Sexual Violence

Sexual violence is a global problem, affecting the lives of women and girls of all ages and of all types of backgrounds. Victims of sexual abuse may suffer from a number of physical, emotional and psychological injuries, profoundly impacting all aspects of their lives. When sexual assault results in a pregnancy, the harm experienced may be exponentially exacerbated; particularly, in countries with restrictive abortion laws, where such pregnancies leave women with the dire choice between carrying the pregnancy to term or undergoing a clandestine, unsafe abortion. The story of L.C. demonstrates the tragic consequences sexual violence has on women's physical and mental health.¹

When L.C. was 13 years old, she became pregnant as a result of repeated sexual abuse by one of her neighbors. After attempting to commit suicide by jumping off of her roof, she was seriously injured and in need of urgent spinal surgery, which doctors refused to provide out of fear that the surgery would interfere with her pregnancy. Under Peru's restrictive abortion law, abortion is only permitted when the pregnancy poses a risk to the life or health of the woman, and there is not an explicit exception for abortion when pregnancy results from rape. Despite repeatedly requesting a therapeutic abortion, it was not until after L.C. suffered a miscarriage that she was able to access the spinal surgery that she urgently needed. She is now paralyzed and is confined to a wheelchair.

Legal Abortion when Pregnancy Results from Rape

Sixty countries worldwide permit abortion without restriction as to reason, while others prohibit abortion generally and recognize certain exceptions such as when the life or health of the woman is at risk, based on socioeconomic grounds, when the pregnancy results from rape or incest or when there is a fetal impairment. Forty two countries with restrictive abortion laws have explicit exceptions permitting abortion in instances of rape.² In addition to these 102 countries, several others have laws that may be interpreted to allow abortion in cases of rape.³ For example, in the case of *Attorney General v. X* in Ireland, the Irish Supreme Court interpreted Ireland's constitution to permit abortion when there is a risk to the woman's life, including as a result of the threat of suicide resulting from an unwanted pregnancy.⁴ Other countries that permit abortion when there is a threat to the woman's life or health or on socioeconomic grounds could potentially interpret their laws to also permit abortion when a pregnancy results from rape.

It should be noted that laws permitting women to utilize abortion services when pregnancy results from rape do not necessarily mean that women can access these services. In the case of *Paulina Ramirez v. Mexico*,⁵ a 13-year-old who became pregnant as a result of rape was legally entitled to abortion services under the state's criminal code. Yet, when she tried to exercise this right, she was repeatedly thwarted by government officials and hospital staff, resulting in her ultimately being unable to access safe abortion services and being forced to carry the pregnancy to term.

United Nations Human Rights Treaty Standards

U.N. human rights treaty monitoring bodies are tasked with monitoring State compliance with their human rights treaty obligations. These treaty bodies widely agree that abortion should be legal when a pregnancy results from rape and have repeatedly urged countries to amend their laws to this effect.⁶ They have also urged States to “adopt medical standards and provide for implementation mechanisms establishing that rape and incest constitute grounds for abortion.”⁷ In 2011, the Committee on the Elimination of Discrimination against Women (CEDAW Committee) decided the case of *L.C. v. Peru*, mentioned above. In its decision, the CEDAW Committee urged the State party to “review its legislation with a view to decriminalizing abortion when the pregnancy results from rape or sexual abuse.”⁸

World Health Organization Standards

The World Health Organization (WHO) has clearly indicated that women who become pregnant as a result of rape should have access to safe abortion services.⁹ The WHO has made clear that women should be provided safe, legal abortion services based on their complaint of the rape,¹⁰ and should not be compelled to take unnecessary administrative or judicial action, such as identifying or pressing charges against the perpetrator or providing forensic evidence of the rape.¹¹ The WHO has noted that such requirements can delay access to abortion services,¹² or may prevent access to services altogether, such as where women cannot meet the requirements before reaching the gestational limit for legal abortion¹³ and in instances when women do not want to report the rape due to fear of stigma.¹⁴ To facilitate access to abortion services in such cases, the WHO advises that States should provide appropriate training and elaborate standards and guidelines, including referrals to abortion services, for both police and healthcare providers.¹⁵

Emergency Contraception

As the only effective form of post-coital contraception, it is critical that survivors of sexual violence are offered and provided with emergency contraception. If taken within 24 hours of intercourse, emergency contraception can reduce the likelihood of pregnancy by up to 95 percent; if taken up to five days after intercourse, emergency contraception is still up to 88 percent effective.¹⁶ Emergency contraception is particularly important in countries with restrictive abortion laws, as women becoming pregnant as the result of rape would be forced to either carry their pregnancy to term or seek out clandestine, unsafe abortions. U.N. treaty monitoring bodies have repeatedly called on States to increase the availability of emergency contraception¹⁷ and the Committee against Torture, which monitors State compliance with the Convention Against Torture, has expressed concern about the lack of access to oral emergency contraception for victims of rape, framing the practice as potential torture or cruel, inhuman or degrading treatment.¹⁸ The Special Rapporteur on Violence against Women has characterized restrictions on access to contraception as a “form of violence” because they subject “women to excessive pregnancies and childbearing against their will, resulting in increased and preventable risks of maternal mortality and morbidity.”¹⁹

Countries Permitting Abortion when Pregnancy Results from Rape

The following tables categorize countries' abortion laws from least to most restrictive. The countries in Table I allow abortion without restriction as to reason. The countries in Tables II - IV include countries with restrictive laws that only permit abortion based on certain grounds. Each of the countries listed in Tables II-IV explicitly permits abortion in cases of a pregnancy resulting from rape. Countries in Table II permit abortion on socioeconomic grounds, explicitly considering such factors as a woman's economic resources or her marital status. Countries in Table III permit abortion when the pregnancy poses a risk to the women's life or health. Countries in Table IV explicitly permit abortion when the pregnancy poses a risk to the woman's life. Some of these countries may also permit abortion for other indications, such as incest; for the purposes of this fact sheet, such indications are not included.

TABLE I: COUNTRIES PERMITTING ABORTION WITHOUT RESTRICTION AS TO REASON

Albania	Georgia	Puerto Rico
Armenia	Germany	Romania
Austria	Greece	Russian Fed.
Azerbaijan	Guyana	Serbia
Bahrain	Hungary	Singapore
Belarus	Italy	Slovak Republic
Belgium	Kazakhstan	Slovenia
Bosnia-Herzegovina	Kosovo	South Africa
Bulgaria	Kyrgyzstan	Spain
Cambodia	Latvia	Sweden
Canada	Lithuania	Switzerland
Cape Verde	Luxembourg	Tajikistan
China	Macedonia	Tunisia
Croatia	Moldova	Turkey
Cuba	Mongolia	Turkmenistan
Czech Rep.	Montenegro	Ukraine
Dem. People's Rep. of Korea	Nepal	United States
Denmark	Netherlands	Uruguay
Estonia	Norway	Uzbekistan
France	Portugal	Vietnam

TABLE II: COUNTRIES PERMITTING ABORTION ON SOCIOECONOMIC GROUNDS OR WHEN PREGNANCY RESULTS FROM RAPE

Barbados	Finland	India
Cyprus	Hong Kong	Japan
Fiji	Iceland	Saint Vincent and Grenadines

TABLE III: COUNTRIES PERMITTING ABORTION WHEN THE PREGNANCY POSES A RISK TO THE WOMAN’S LIFE OR HEALTH OR WHEN PREGNANCY RESULTS FROM RAPE
(COUNTRIES IN BOLD EXPLICITLY INCLUDE RISKS TO THE WOMAN’S MENTAL HEALTH)

Argentina	Guinea	Rep. of Korea
Benin	Israel	Rwanda
Bolivia	Lesotho	Saint Lucia
Botswana	Liberia	Seychelles
Burkina Faso	Mauritius	Swaziland
Cameroon	Monaco	Thailand
Colombia	Namibia	Togo
Ecuador ²⁰	Poland	Zimbabwe
Ethiopia		
Ghana		

TABLE IV: COUNTRIES EXPLICITLY PERMITTING ABORTION WHEN THE PREGNANCY POSES A RISK TO THE WOMAN’S LIFE OR WHEN PREGNANCY RESULTS FROM RAPE

Bhutan	Mali	Panama
Brazil	Mexico ²¹	Sudan
Indonesia		

¹ Committee on the Elimination of Discrimination Against Women (CEDAW Committee), Views, L.C. v. Peru, Communication No. 22/2009, U.N. Doc. CEDAW/C/50/D/22/2009 (2011).

² This includes Ecuador, whose exception only permits abortion when the woman who was raped has an intellectual disability.

³ The nuanced manner in which abortion laws are written and interpreted makes it difficult to determine the exact number of countries permitting abortion when a pregnancy results from rape.

⁴ Attorney General v. X and Others (1992) (Ir.).

⁵ Paulina del Carmen Ramírez Jacinto, Petition 161-02, Inter.-Am. Comm’n H.R., Report No. 21/07, Friendly Settlement (2007), available at <http://www.cidh.oas.org/annualrep/2007eng/Mexico161.02eng.htm>; see also Center for Reproductive Rights, *Paulina Ramirez v. Mexico (Inter-American Commission on Human Rights)*, <http://reproductiverights.org/en/case/paulina-ram%C3%ADrez-v-mexico-inter-american-commission-on-human-rights>.

⁶ See, e.g., Committee on the Rights of the Child, *Concluding Observations: Argentina*, para. 59, U.N. Doc. CRC/C/ARG/CO/3-4 (2010) (“The Committee recommends that the State party... Take urgent measures to reduce maternal deaths related to abortions, in particular ensuring that the provision on non-punishable abortion, especially for girls and women victims of rape, is known and enforced by the medical profession without intervention by the courts and at their own request.”); Committee on Economic, Social and Cultural Rights, *Concluding Observations: Peru*, para. 21, U.N. Doc. E/C.12/PER/CO/2-4 (2012) (“The Committee... recommends that the criminal code be amended so that consensual sexual relations between adolescents are no longer considered as a criminal offence and that abortion in case of pregnancy as a result of rape is not penalized.”); Committee on Economic, Social and Cultural Rights, *Concluding Observations: Kenya*, para. 33, U.N. Doc. E/C.12/KEN/CO/1 (2008) (“The Committee recommends that the State party ensure affordable access for everyone, including adolescents, to comprehensive family planning services, contraceptives and safe abortion services, especially in rural and deprived urban areas, by ... decriminalizing abortion in certain situations, including rape and incest.”); Human Rights Committee, *Concluding Observations: Guatemala*, para. 20, U.N. Doc. CCPR/C/GTM/CO/3 (2012) (“The State party should, pursuant to article 3 of its Constitution, include additional exceptions to the prohibition of abortion so as to save women from having to resort to clandestine abortion services that endanger their lives or health in cases such as pregnancy resulting from rape or incest.”).

⁷ CEDAW Committee, *Concluding Observations: Kuwait*, para. 43(d), U.N. Doc. CEDAW/C/KWT/CO/3-4 (2011).

⁸ L.C. v. Peru, *supra* note 1, para. 9(b)(iii).

⁹ WORLD HEALTH ORGANIZATION (WHO), SAFE ABORTION: TECHNICAL AND POLICY GUIDANCE FOR HEALTH SYSTEMS 92 (2011) (“The protection of women from cruel, inhuman and degrading treatment requires that those who have become pregnant as the result of coerced or forced sexual acts can lawfully access safe abortion services.”).

¹⁰ *Id.* at 92-93.

¹¹ *Id.* at 69, 92-93.

¹² *Id.* at 92-93.

¹³ *Id.*

¹⁴ *Id.*

¹⁵ *Id.* at 69, 92-93.

¹⁶ Princeton University Office of Population Research & Association & Association of Reproductive Health Professionals, *Emergency Contraception: Effectiveness of Emergency Contraceptives*, <http://ec.princeton.edu/questions/effect.html> (Nov. 26, 2012); WHO, *Emergency Contraception, Fact sheet N° 244* (2012), available at <http://www.who.int/mediacentre/factsheets/fs244/en/index.html>.

¹⁷ See, e.g., Committee on the Rights of the Child, *Concluding Observations: Ecuador*, para. 60-61, U.N. Doc. CRC/C/ECU/CO/4 (2010); Committee on the Rights of the Child, *Concluding Observations: Costa Rica*, para. 63-64, U.N. Doc. CRC/C/CRI/CO/4 (2011); CEDAW Committee, *Concluding Observations: Costa Rica*, para. 32-33 U.N. Doc. CEDAW/C/CRI/CO/5-6 (2011).

¹⁸ Committee Against Torture, *Concluding Observations: Peru* (2012), para. 15, U.N. Doc. CAT/C/PER/CO/6 (2012).

¹⁹ Special Rapporteur on violence against women, its causes and consequences, Radhika Coomaraswamy, *Integration of the Human Rights of Women and the Gender Perspective*, para. 57-58, U.N. Doc. E/CN.4/1999/68/Add.4 (1999).

²⁰ Ecuador only permits abortion in instances of rape when the woman who was raped has an intellectual disability.

²¹ Mexico has a federal system wherein abortion laws are determined at the state level; this categorization reflects the legal status of abortion for the largest group of people.